

## REMARKS

In preparing to pay the issue fee in response to the Notice of Allowance and Fee Due, Applicants noted that a non-patent literature document (document CB) submitted in an previously filed Information Disclosure Statement was not considered by the Examiner because the Information Disclosure Statement purportedly failed to identify the year of publication. Applicants submit herewith a new Information Disclosure Statement, along with the reference, May et al. "A Novel Dark Quencher for Oligonucleotide Probes: Synthesis and Applications", TIDES IBC Oligonucleotide and Peptide Technology Conference, May 6, 2002. The Request for Continued Examination is being filed in order that the Examiner may have the opportunity to consider the May et al. reference.

To the extent that the May et al. reference may be considered to be available as a reference under 35 USC 102(a) and potentially relevant to the claimed invention, Applicants submit a declaration under 37 CFR 1.131 by Dr. Mark Behlke ("the Declaration"), an inventor of the claimed invention, establishing actual reduction to practice of the claimed invention prior to the effective date of the reference.

As Dr. Behlke attests at paragraph 4 of the Declaration, prior to May 6, 2002, Dr. Andrei Laikhter, a co-inventor of the claimed invention, synthesized mono- and di- $\alpha$ -aminoanthraquinone quencher phosphoramidite monomers, precursors for attaching quenchers to oligonucleotides in the United States. Also prior to May 6, 2002, oligonucleotides labeled with a fluorophore and an  $\alpha$ -aminoanthraquinone quencher were used to detect a target nucleic acid in a sample. (See paragraph 5 of the Declaration.) Applicants have thus established actual reduction to practice prior to the effective date of the reference.

As the present application is in condition for allowance, favorable consideration of the application is respectfully requested. Should any questions remain, the Examiner is encouraged to contact the undersigned at **608.257.3501** so that prompt disposition of the application may be achieved.

No fee is believed due in connection with this submission. However, the Commissioner is authorized to charge any other fee which may be required to Deposit Account No. **50-0842**.

Respectfully submitted,

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